SOUTHERN DISTRICT OF NEW YORK	V	
PINNACLE ENVIRONMENTAL CORPORATION,	X : :	
Plaintiff,	: :	23-CV-10732 (JMF)
-V-	: :	<u>ORDER</u>
VOLMAR CONSTRUCTION, INC. et al.,	: :	
Defendants.	: : X	

JESSE M. FURMAN, United States District Judge:

In light of Third-Party Defendant Bank of America's new motion to dismiss, *see* ECF No. 66, its earlier motion to dismissed filed at ECF No. 40 is hereby DENIED as moot. Volmar's opposition to the new motion to dismiss is due by **August 23, 2024**. Bank of America's reply, if any, is due by **August 30, 2024**.

Additionally, it appears that Exhibit 5 to the Declaration of Melek J. Dunn, ECF No. 68, may be missing from Bank of America's filings. Bank of America shall refile that Declaration with all exhibits attached within two days of this Order.

The Clerk of Court is directed to terminate ECF No. 40.

SO ORDERED.

Dated: August 13, 2024

New York, New York

United States District Judge